

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF NURSING

IN THE MATTER OF THE  
LICENSE OF

KEVIN McCafferty, APN, RN  
RN # 26NR04704300  
APN # 26NJ00276800

TO PRACTICE NURSING IN THE  
STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER**

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and upon which the following preliminary findings of fact and conclusions of law are made:

**FINDINGS OF FACT**

1. Kevin McCafferty ("Respondent") is a Registered Professional Nurse (RN) and an Advanced Practice Nurse (APN) in the State of New Jersey and has been a licensee at all times relevant hereto. Respondent is a Certified Registered Nurse Anesthetist (CRNA).

2. Nina Singh, M.D., was employed by Medi Kine Group LLC, an anesthesia practice, from February 13, 2012 through January 2, 2013. Medi Kine is contracted with Jersey Shore Surgery Center.

3. Dr. Singh stated that on two occasions in September of 2012, Respondent "reeked of alcohol" while at work, and that on multiple occasions she (Dr. Singh) smelled alcohol on his breath at work and while he was taking care of patients.

4. Dr. Singh also stated that Respondent on one occasion came into work after getting into a physical altercation on his time off, and presented himself at work with his face "busted from being punched."

5. Patricia Kasica, M.D., worked with Respondent for three or four years. Dr. Kasica stated that although she never observed Respondent drinking in the course of his employment, he did occasionally smell of alcohol while at work. She stated that she believed this smell to relate to consumption of alcohol on the previous night.

6. Dr. Kasica also stated that she observed Respondent bullying other employees. She stated that he has asked for a nurse to sign for a narcotic waste after it had already been wasted, and that Respondent has used foul language and made inappropriate statements in the presence of patients.

7. Nurse Jeanine Kovach, R.N., indicated that she never smelled alcohol on Respondent, but that he was loud and obnoxious, and would frequently talk disrespectfully about others.

### **CONCLUSIONS OF LAW**

Pursuant to N.J.S.A. 45:1-22(f), the fact that two physicians noted that Respondent smelled of alcohol while at work at Jersey Shore Medical Center, and that three colleagues observed Respondent engage in questionable behavior, described as erratic and/or bullying and/or involving the use of foul language, warrants ordering Respondent, as a condition for continued licensure, to submit to evaluation and monitoring to evaluate whether continued practice may jeopardize the health, safety, and welfare of the public.

### **DISCUSSION**

Based on the foregoing findings and conclusions, a Provisional Order seeking a comprehensive mental health and substance abuse evaluation under the auspices of the Board's designated intervention program, the Recovery and Monitoring Program (RAMP), was entered on April 6, 2015. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order. Respondent argued that Dr. Singh was a disgruntled former employee and that Dr. Singh had a history of filing complaints in a vindictive manner. Respondent indicated that during her divorce, Dr. Singh made a complaint against the Physician Assistant with whom her ex-husband (also a doctor) worked and with whom the ex-husband was supposedly having an affair, including having a child together.

Regarding Dr. Kasica's statement, Respondent argued that the statement previously made should not be afforded much weight since Dr. Kasica had recently contacted Respondent via social networking (Doximity) and invited Respondent to become a member of her clinical network.

Respondent provided ten certifications from co-workers and medical personnel attesting to Respondent's good character and that they had never noticed any evidence of alcohol or substance abuse or any type of impairment.

Respondent argued that since the allegations pertained to conduct which occurred prior to January 2, 2013, the Board would be unable to find, at this time, that Respondent was presently (within the last 365 days) engaged in drug or alcohol abuse that is likely to impair the ability to practice nursing with reasonable skill and safety pursuant to N.J.S.A. 45:1-21(l). To be sure, the Provisional Order did not include that statutory citation and the Board did not make a finding that Respondent was engaged in drug or alcohol abuse. The Provisional Order sets forth that the issue or question of possible alcohol or substance abuse has been raised and an evaluation is warranted to aid in determining the answer to that issue or question. Before filing the Provisional Order, the Board offered Respondent the opportunity to undergo a comprehensive mental health and substance abuse evaluation. Respondent refused. Although ten medical professionals have indicated that they have not seen any evidence of alcohol or drug abuse or impairment, three have. In order to fulfill its mandate to protect the public, an evaluation is warranted. An evaluation protects the public, reassures the Board, and may also serve Respondent's interest.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that the Provisional Order should be made final.

**ACCORDINGLY, IT IS on this 14<sup>th</sup> day of December, 2015,**

**ORDERED that:**

1 Respondent is hereby ordered, within thirty days following the finalization of this order, to enroll in the Recovery and Monitoring Program of New Jersey (RAMP) at his own expense, and undergo comprehensive mental health and substance abuse

evaluation and monitoring to ascertain whether Respondent is fit and competent to practice nursing in the State of New Jersey.

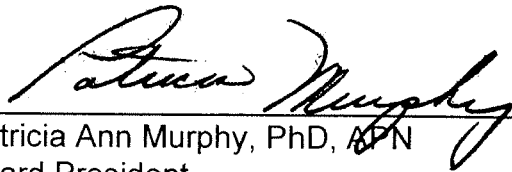
2. Respondent shall undergo random observed urine screens or hair, nail or blood screens, as required by RAMP. Respondent shall undergo a comprehensive mental health and substance use evaluation to be conducted by a qualified mental health evaluator as recommended by RAMP. Said evaluator shall prepare a report to the Board indicating whether Respondent is able to safely and competently practice nursing, and said report shall include recommendations for treatment and monitoring, if applicable, including the need for continued random substance use screenings or limitations of practice. Said report shall be forwarded to the Board. Respondent shall remain in RAMP until successful completion or release from the program.

3. By undergoing evaluation, Respondent expressly waives any claim of privilege or confidentiality that he may have concerning RAMP reports and disclosures to the Board, and use by the Board of that information in any proceedings.

4. All costs associated with the evaluation, monitoring, and/or treatment outlined above shall be the responsibility of, and paid directly by, Respondent.

NEW JERSEY STATE BOARD OF NURSING

By:

  
Patricia Ann Murphy, PhD, APN  
Board President